

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1653 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 32-7-5-12 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) Upon
5 termination of a rental agreement, all of the security deposit held by the
6 landlord shall be returned to the tenant, except for any amount applied
7 to:
8 (1) the payment of accrued rent;
9 (2) the amount of damages that the landlord has or will
10 reasonably suffer by reason of the tenant's noncompliance with
11 law or the rental agreement; and
12 (3) unpaid utility or sewer charges that the tenant is obligated to
13 pay under the rental agreement;
14 all as itemized by the landlord in a written notice delivered to the
15 tenant together with the amount due within forty-five (45) days after
16 termination of the rental agreement and delivery of possession. The
17 landlord is not liable under this chapter until supplied by the tenant in
18 writing with a mailing address to which to deliver the notice and
19 amount prescribed by this subsection. Unless otherwise agreed, the
20 tenant is not entitled to apply a security deposit to rent.
21 (b) If the landlord fails to: ~~comply with subsection (a);~~
22 **(1) return the security deposit; or**
23 **(2) send the notice required by subsection (a);**
24 **the landlord shall immediately return all of the security deposit to**

the tenant. ~~may recover all of the security deposit due the tenant and reasonable attorney's fees.~~

(c) If the landlord sends the notice required under subsection (a), but fails to return the amount of the security deposit due the tenant after deduction of the itemized damages, the landlord shall immediately return the remainder of the security deposit due the tenant as provided in the notice.

(d) If the tenant incurs costs or attorney's fees to recover the security deposit or any part of the security deposit, the landlord is liable for:

- (1) court costs;
- (2) reasonable attorney's fees; and
- (3) other reasonable expenses of litigation;

incurred by the tenant.

~~(e)~~ (e) This section does not preclude the landlord or tenant from recovering other damages to which either is entitled. **The landlord may maintain an action to recover damages the landlord has suffered. However, before filing an action to recover damages, the landlord must satisfy the requirements of subsections (b) and (c).**

(f) Compliance with this chapter does not waive the landlord's claim for future rent under the rental agreement.

~~(g)~~ (g) The owner of the dwelling unit at the time of the termination of the rental agreement is bound by this section.

SECTION 2. IC 32-7-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. In case of damage to the rental unit or other obligation against the security deposit, the landlord shall mail to the tenant, within forty-five (45) days after:

- (1) the termination of occupancy; **or**
- (2) **the termination of the rental agreement and delivery of possession in the case of holdover by the tenant;**

an itemized list of damages claimed for which the security deposit may be used as provided in section 13 of this chapter, including the estimated cost of repair for each damaged item and the amounts ~~and lease on which otherwise due under the rental agreement that~~ the landlord intends to assess ~~the tenant against the security deposit.~~ The list must be accompanied by a check or money order for the difference between the damages claimed and the amount of the security deposit held by the landlord.

SECTION 3. IC 32-7-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. Failure by the landlord to comply with the notice of damages requirement within the forty-five (45) days after:

- (1) the termination of occupancy; **or**
- (2) **the termination of the rental agreement and delivery of possession in the case of holdover by the tenant;**

constitutes agreement by the landlord ~~that no damages are due, and the~~

1 ~~landlord must to~~ remit to the tenant immediately the full security
 2 deposit. **After the landlord has remitted the full security deposit,**
 3 **the landlord may maintain an action to collect the damages the**
 4 **landlord has suffered.**

5 SECTION 4. IC 32-7-5-16 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) A landlord who
 7 fails to provide a written statement within forty-five (45) days of:

8 (1) **the termination of occupancy; or**

9 (2) **the tenancy or the return of the appropriate security deposit**
 10 **termination of the rental agreement and delivery of**
 11 **possession in the case of holdover by the tenant;**

12 is liable to the tenant ~~in an~~ **for the entire** amount ~~equal to the part of~~
 13 the **security** deposit, ~~withheld by the landlord,~~ plus reasonable
 14 attorney's fees and court costs **incurred in collection.**

15 (b) **A landlord who:**

16 (1) **provides a written statement of damages within forty-five**
 17 **(45) days of:**

18 (A) **the termination of occupancy; or**

19 (B) **the termination of the rental agreement and delivery**
 20 **of possession in the case of holdover by the tenant; and**

21 (2) **fails to return the appropriate amount of the security**
 22 **deposit;**

23 is liable to the tenant in an amount equal to the part of the security
 24 deposit wrongfully withheld by the landlord, reasonable attorney's
 25 fees incurred in collection, court costs, and other reasonable
 26 litigation expenses incurred in collection.

27 (c) **In an action to collect damages the landlord has suffered,**
 28 **the court shall award the following to the tenant if the tenant**
 29 **prevails and the court finds that the action is frivolous:**

30 (1) **Reasonable attorney's fees.**

31 (2) **Court costs and other reasonable litigation expenses."**

32 Renumber all SECTIONS consecutively.

(Reference is to HB 1653 as printed February 25, 1999.)

Representative Hasler